

REMARKS

Claims 1-3 and 7-9 are pending in this application, with Claims 1 and 7 being the independent Claims. Claims 4-6 and 10-12 are cancelled. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US 6,836,469 in view of Fang (US 5,481,561).

It is respectfully submitted that the Examiner is incorrect in rejecting Claims 1-3 and 7-9 under 35 U.S.C. §103(a) based on *Wu* in view of *Fang*. *Wu* in view of *Fang* alone or combined neither discloses nor suggests each and every element of amended independent Claims 1 and 7, and thus the present invention is not obvious over the prior art of record.

Reconsideration of the present application is respectfully requested.

Wu discloses a medium access control (MAC) protocol for controlling data communication in a multi-channel communication system (e.g., a wideband code division multiple access system). The protocol provides a procedure for transmitting, via a plurality of data links and control links, data packets between a first station (e.g., a base station) and one or more second stations (e.g., mobile stations). Wu also discloses an improved multi-channel MAC protocol as applied to a WCDMA system. Wu further discloses a contention phase wherein the mobile stations send short packets to the base station via some M control channels. Each of the short packets contains dummy data or padding bits which are error-protected by an error detection code (e.g., Cyclic Redundant Code (CRC)).

Fang discloses a network of personal communications terminals communicating in a CDMA mode which includes a reference station for transmitting a pilot tone that is pre-corrected at the reference station and is used at the remaining stations for frequency control, transmit power control and antenna acquisition and tracking.

The Examiner alleges that Wu (US 6,836,469) in view of Fang (US 5,481,561) fully and completely discloses the invention. However, the Examiner acknowledged that Wu does not disclose, "transmitting a dedicated physical data channel signal". The Examiner then asserts that

Fang teaches mitigating “near-far” problems inherent in a CDMA system by sending dummy data in the speech pausing period in data channels. First, the Examiner’s assertion is not understood; further clarification is respectfully requested. Second, the citation (Fang:col. 4, lines 62-66) reveals something entirely different than mitigating “near-far” problems inherent in a CDMA system as alleged by the Examiner. The Examiner misapprehends Fang. Fang discloses, teaches or suggests no structure corresponding to “maintaining the target SIR (Signal-to-Interference Ratio)” of the invention. In fact, Fang teaches away from the invention. Fang teaches the “use of uplink power control” whereas the invention teaches maintaining the target SIR (Signal-to-Interference Ratio). Fang’s teachings would have led in a direction divergent from the path taken by the inventor. The use of uplink power control would destroy maintaining the target SIR (Signal-to-Interference Ratio). As a result, Fang teaches away from the invention, and therefore does not teach or suggest transmitting a dedicated physical data channel signal over a dedicated physical data channel in amended Claim 1.

Assuming *arguendo* that Fang did not teach away from the invention, it does not however, cure the deficiency of Wu. Fang discloses transmitting corresponding spread spectrum signal at a reduced level by a factor of k . However, Claim 1 as amended recites transmitting a dedicated physical data channel signal created by attaching the CRC (Cycle Redundancy Check) bit stream to the dummy bit stream over a dedicated physical data channel in order to maintain the target Signal-to-Interference Ratio (SIR). As a result, the combination of Wu in view of Fang or any of the references alone fails to teach or suggest each and every element of Claim 1 as amended. Thus, Wu in view of Fang fails to present a *prima facie* case of obviousness with respect to Claim 1 as amended. Furthermore, Wu in view of Fang should not even be considered together since Fang teaches away from the invention.

Claim 7 has also been amended to incorporate the same limitation as claim 1. Thus, Wu in view of Fang also fails to present a *prima facie* case of obviousness with respect to Claim 7 as amended.

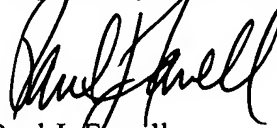
Claims 2-3 depend from and contain all the elements of Claim 1 as amended. Claims 2-3

are distinguishable from Wu in view of Fang in the same manner as Claim 1.

Claims 8-9 depend from and contain all the elements of Claim 7 as amended, Claims 8-9 should be held distinguishable from Wu in view of Fang in the same manner as Claim 7.

Accordingly, all of the claims pending in the Application, namely, Claims 1-3 and 7-9, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the typed name.

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